

## CHAPTER 85

AN ACT concerning the use of tents and other fixtures for outdoor dining on certain property, and amending and supplementing P.L.2021, c.15.

**BE IT ENACTED** by the Senate and General Assembly of the State of New Jersey:

1. Section 1 of P.L.2021, c.15 is amended to read as follows:

1. As used in this act, P.L.2021, c.15, and only for the purposes of this act:

“Brewery” means a brewery operating under a brewery license pursuant to R.S.33:1-10.

“Distillery” means a distillery that has been issued, and is in compliance with, a distillery license pursuant to R.S.33:1-10.

“Food” means food that is cooked, prepared, sold, served, and consumed on the business premises.

“Outdoor space” means a patio or deck, whether covered or uncovered, a yard, a walkway, or a parking lot, or a portion of any such space, that is located on or adjacent to the business premises, which space is owned, leased, otherwise in the lawful control of the owner or operator of the business premises, or any space which is designated by a municipality or county for outdoor dining pursuant to P.L.2021, c.15.

“Public sidewalk” means a sidewalk on the locally or county owned public right-of-way which is adjacent to the business premises, or a portion thereof.

“Special Ruling No. 2020-10” means Special Ruling No. 2020-10, issued by the acting director of the Division of Alcoholic Beverage Control on June 3, 2020.

2. Section 4 of P.L.2021, c.15 is amended to read as follows:

4. a. Notwithstanding the provisions of any other law to the contrary, the expiration date of any COVID-19 Expansion Permit issued by the Director of the Division of Alcoholic Beverage Control pursuant to the provisions of Special Ruling No. 2020-10 shall be November 30, 2024.

b. The governing body of a municipality may file with the Division of Alcoholic Beverage Control an objection to the continued operation under subsection a. of this section by any licensee or permittee the governing body finds to have:

(1) failed to follow, maintain, and enforce protocols promulgated by the Commissioner of Health or by Executive Order of the Governor in response to the COVID-19 public health emergency concerning social distancing and the use of personal protective equipment; or

(2) violated any other health, safety, fire, permitted use, or zoning regulations or ordinances not otherwise directly superseded by this section or Special Ruling No. 2020-10.

Any decision rendered, or action taken, by the Director of the Division of Alcoholic Beverage Control as a result of an objection filed by the governing body of the municipality pursuant to this subsection shall be a final agency action subject to judicial review in the Appellate Division of the Superior Court of New Jersey in accordance with the Rules of Court.

c. Nothing in this act shall preclude or limit the authority provided to the Director of the Division of Alcoholic Beverage Control pursuant to the provisions of Title 33 of the Revised Statutes or the exercise of such authority thereby.

3. Section 10 of P.L.2021, c.15 is amended to read as follows:

10. This act shall take effect on the 30th day following enactment and sections 1 through 8 shall expire at 11:59 p.m. on November 30, 2024.

4. Notwithstanding any provision of law to the contrary, while P.L.2021, c.15 is in effect, the installation and continuous use of tents, canopies, umbrellas, tables, chairs, and other fixtures on private property or public property or right of way designated by a municipality pursuant to P.L.2021, c.15 and P.L.2022, c.85, shall be a permitted use provided that the tent, canopy, umbrella, table, chairs, or other fixture conforms to all applicable provisions of the State Uniform Construction Code and Uniform Fire Code, which have been adopted by the Commissioner of Community Affairs pursuant to P.L.1975, c.217 (C.52:27D-119, et seq.) and P.L.1983, c.383 (C.52:27D-192 et seq.), respectively. The permitted use of tents, canopies, umbrellas, tables, chairs, and other fixtures allowed by this section shall be limited to the timeframe encompassing the first day of April through the close of business on November 30 for each year in which P.L.2021, c.15 is in effect. Any administrative rule or regulation, with the exception of those applicable pursuant to the Uniform Construction Code and Uniform Fire Code, which limits the use of tents, canopies, umbrellas, tables, chairs and other fixtures to 180 days or less during the time frame encompassing the first day of April through the close of business on November 30 shall be inapplicable during the time that P.L.2021, c.15 is in effect. Notwithstanding the foregoing, any administrative rule or regulation which governs the use of tents, canopies, umbrellas, tables, chairs, and other fixtures on private or public property or right of way designated by a municipality pursuant to P.L.2021, c.15 and P.L.2022, c.85 for the time period encompassing the first day of December through the last day of March shall not be impacted by P.L.2022, c.85.

5. This act shall take effect immediately.

Approved August 3, 2022.